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From:

Sent: Friday, July 17, 2009 8:50:32 AM

To:

Cc:

Subject: NOD IRM 4.8.9.24.3

Hi

In regards to your follow-up question, the authority to issue a second NOD exists in the sense that there is no restriction in the Code prohibiting such an action based on the fact that the taxpayer has neither petitioned the Tax Court as stipulated § 6212 (c) nor filed a return, in which case, the SOL would no longer be open. Thus, there is nothing barring the Service's ability to send a second notice based on these conditions. (This is also assuming the tax has not been assessed)

Is this more helpful? The question, under what authority does the Service have to issue a second NOD, may be interpreted as what is stopping the Service from issuing a second Notice of Deficiency? Based on the background information, there are no restrictions in the Code that would prohibit sending a second NOD because (a) a return has not been filed, and (b) the taxpayer has not petitioned the Tax Court.

Please don't hesitate to contact me at

or by email should you have further questions or

issues.

Thanks,